



## ADDENDUM #1

RFA-2022-DLTSS-01-PREAD

Pre-Admission Resident Review and Nursing Facility Level of Care Services

On February 26, 2021, the New Hampshire Department of Health and Human Services published a Request for Applications soliciting applications to administer a Pre-Admission Screening Resident Review (PASRR) process in accordance with state and federal rules, laws and regulations, for all individuals seeking admission to or currently residing in a nursing facility. The selected Applicant will provide medical, psychological, and/or psychiatric consultant services for evaluating claims of disability, and will conduct nursing facility Level of Care (LOC) determinations for Medicaid payments to nursing facilities and home and community-based care agencies.

The Department is publishing this addendum to:

- 1. Delete and replace Section 1, Request for Services, Subsection 1.3, Scope of Services, Paragraph 1.31, Pre Admission Screening Resident Review (PASRR Level ), Subparagraph 1.3.1.1, with the following:**
  - 1.3.1.1 The selected Applicant will review the Level I Pre-Admission Screening (PAS) tool completed by health care providers when individuals are referred for placement at a to a Medicaid Certified Nursing Facility (NF) for long-term care (LTC), regardless of payment source. The selected Vendor will conduct the PASRR level I screen. Level I PAS are not required for individuals transferring from NF to NF, or for individuals readmitted to a NF after a hospital stay.
- 2. Delete and replace Section 1, Request for Services, Subsection 1.3, Scope of Services, Paragraph 1.31, Pre Admission Screening Resident Review (PASRR Level ), Subparagraph 1.3.1.4, with the following:**
  - 1.3.1.4 The selected Applicant will complete the review of the Level I PAS and provide a PASRR level I screening determination to the individual's referring health care provider within five (5) business days of receiving the Level I PAS referral document.
- 3. Delete and replace Section 1, Request for Services, Subsection 1.3, Scope of Services, Paragraph 1.32, Pre Admission Screening Resident Review (PASRR Level II Evaluations), Subparagraph 1.3.2.1, with the following:**
  - 1.3.2.1 The selected Applicant will complete all Level II Evaluations within seven (7) business days (business days is defined as Monday-Friday 8:00 AM to 4:00 PM EST, excluding State holidays) when a MI or ID or a related condition has been indicated by Level I Pre-Admission Screenings.
- 4. Section 1 Request for Services, Subsection 1.3 Scope of Services, Paragraph 1.3.5 Nursing Facility (NF) Level of Care (LOC) Determinations , Subparagraph 1.3.5.6, Line 1.3.5.6.1, Subline 1.3.5.6.1.3 with the following:**

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1.3.5.6.1.3 Record the activity of contacting the client as 'MEA – Unable to Contact,' if all attempts in Subline 1.3.5.6.1.1 are unsuccessful.

**5. Section 1 Request for Services, Subsection 1.3 Scope of Services, Paragraph 1.3.5 Nursing Facility (NF) Level of Care (LOC) Determinations , Subparagraph 1.3.5.7, Line 1.3.5.7.6, Subline 1.3.5.7.6.1 with the following:**

1.3.5.7.6.1 When additional information is needed and relevant medical records are requested, complete NF LOC eligibility determinations within twenty (20) business days

**6. Section 1 Request for Services, Subsection 1.3 Scope of Services, Paragraph 1.3.5 Nursing Facility (NF) Level of Care (LOC) Determinations , Subparagraph 1.3.5.7, Line 1.3.5.7.6, Subline 1.3.5.7.6.3 with the following:**

1.3.5.7.6.3 Refer individuals determined eligible for NF LOC services who are interested in community-based services to the Department's Long Term Care (LTC) Office as described in the consumer booklets located on the Department's website at:  
<https://www.nhcarepath.dhhs.nh.gov/partner-resources/consumer-booklets.htm>

**7. Delete and replace Section 1, Request for Services, Subsection 1.4, Compensation & Contract Value, Paragraph 1.4.3, with the following:**

1.4.3 Approximate number of services to be provided by type are as follows:

*Type of Review	**Anticipated Number of Reviews Per State Fiscal Year Based on Past Utilization for the last 3 years.
PASRR Level I	668
PASRR Level II	208
NF LOC Initial (new determinations)	1965
NFLOC Redetermination (annual redeterminations)	3,084

\*The Department cannot determine the exact number of types of reviews that will be necessary over the next two State Fiscal Years. The numbers and amounts indicated above are estimates based on past utilization.

\*\*The amounts and types of reviews varies from month to month. The Department anticipates higher volumes of reviews will need to be completed during the springtime months, whereas there may be less demand for reviews during the summer months.

**8. Delete and replace Section 1, Request for Services, Subsection 1.5, Contract Period, Paragraph 1.5.2, with the following:**



- 1.5.2 The Department may extend contracted services for up to four (4) additional years, contingent upon satisfactory Contractor performance, continued funding, agreement of the parties, and Governor and Executive Council approval.

**9. Delete and replace Section 1, Request for Services, Subsection 1.6, Mandatory Responses to RFA Questions, Paragraph 1.6.1 Scoring Applicant Capability, with the following:**

- 1.6.1 **Scoring Applicant Capability** – Applicant capability will be allocated a maximum score of 80 points. Applicants must demonstrate the capability to perform all services requested in this RFA.

**Question 1 of 4** – *Describe, in narrative form, your ability to perform the entire scope of work outlined in this RFA. Describe how your organization's infrastructure, systems, policies, procedures and governance will enable you to meet the requirements of this RFA. Provide a flow chart that indicates current case flow and assignments, and timeframes to case completion, if any.*

**Question 2 of 4** - *Describe your capability to perform to perform the entire scope of work outlined in this RFA. Include a flow chart that indicates revisions that will need to be made to the flow chart provided in your answer to Question 1 of 4, if any, that indicates clear ability to handle case flow and assignment, and manage anticipated volume statewide.*

**10. Delete Appendix A, P-37 General Provisions and Standard Exhibits, Exhibit I, Health Insurance Portability Act Business Associate Agreement 3/2014 and replace with Exhibit I, Health Insurance Portability Act Business Associate Agreement 3/2021, which is attached hereto and incorporated by reference herein.**



## Exhibit I

**HEALTH INSURANCE PORTABILITY  
AND ACCOUNTABILITY ACT  
BUSINESS ASSOCIATE AGREEMENT**

The Contractor identified in Section 1.3 of the General Provisions of the Agreement ("Agreement") agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 (HIPAA), the Health Information and Technology for Economic and Clinical Health Act (HITECH Act), applicable to business associates in the Omnibus Rule, and 42 CFR Part 2, as applicable to Part 2 data. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information (PHI) as defined in this Business Associate Agreement ("BAA") and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

**(1) Definitions.**

- a. The following terms have the same meaning as defined in HIPAA 45 CFR Parts 160, 162 and 164, and the Omnibus Rule FR 78:5566-702 (2013), as amended from time to time.

"Breach," "Business Associate," "Covered Entity," "Designated Record Set," "Data Aggregation," "Designated Record Set," "Health Care Operations," "HITECH Act," "Individual," "Privacy Rule," "Required by law," "Security Rule," and "Secretary."

- b. "Protected Health Information," (PHI) means protected health information defined in HIPAA 45 CFR 160.103, and includes any information or records relating to substance use Part 2 data if applicable, as defined below.
- c. "Part 2 data," means any record or information identifying a patient relating to his or her substance use disorder treatment, evaluation or referral as protected by 42 CFR Part 2.
- d. "Unsecured Protected Health Information," means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

**(2) Business Associate Use and Disclosure of Protected Health Information.**

- a. Business Associate shall not use, disclose, maintain, store, or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit B of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall protect any PHI as required by HIPAA and 42 CFR Part 2, and not use, disclose, maintain, store, or transmit PHI in any manner that would constitute a violation of HIPAA or 42 CFR Part 2.
- b. Business Associate may create, receive, use, disclose, maintain, or transmit PHI, as applicable:

- I. For the proper management and administration of the Business Associate;



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- II. As required by law, pursuant to the terms set forth in paragraph c. and d. below,
  - III. According to the HIPAA minimum necessary standard,
  - IV. For data aggregation purposes for the health care operations of Covered Entity,
  - V. According to requirements relating to disclosures, notices prohibiting re-disclosure as required by 42 CFR Part 2, and
  - VI. With notice to the Covered Entity, to perform services as specified in the Exhibit B of the Agreement.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to any third party, Business Associate must obtain, prior to making any such disclosure, a written agreement with such third party that includes: (i) an agreement that the requirements, limitations, and restrictions placed on the Business Associate by this Agreement also apply to the third party, (ii) reasonable assurances from the third party that such PHI will be held confidentially, and used or further disclosed only as required by applicable law or for the purpose for which it was disclosed to the third party; and (iii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach, and (iv) the duty to return or destroy the PHI as provided under Section 3(m).
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit B of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to determine how to most appropriately protect the PHI. If Covered Entity objects to such disclosure, the Business Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies, and in any judicial proceeding, agrees it shall resist any efforts to access any Part 2 data, as applicable.

**(3) Obligations and Activities of Business Associate.**

- a. Business Associate shall implement appropriate safeguards to prevent unauthorized use or disclosure of PHI in accordance with HIPAA.
- b. The Business Associate shall immediately notify the Covered Entity's Privacy Officer after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by this Agreement including, inadvertent or accidental uses or disclosures, breaches of unsecured protected health information, and any security incident that may impact the confidentiality, integrity, or security of the protected health information of the Covered Entity.
- c. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the situations in b. above. Business Associate shall provide Covered Entity with a final risk assessment report and all related findings as soon as practicable after the completion of its investigation and the final report. The risk assessment shall include, but not be limited to:



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- o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
  - o The unauthorized access or use of the protected health information or to whom the disclosure was made;
  - o Whether the protected health information was actually acquired or viewed
  - o The extent to which the risk to the protected health information has been mitigated.
- d. In the event of a breach, the Business Associate shall comply with all applicable sections of the Privacy, Security, and Breach Notification Rule and the security terms of Exhibit K of the Contract.
- e. Business Associate shall make available all of its internal policies and procedures, books, and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the US Secretary of Health and Human Services for purposes of determining the Business Associate's and the Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Business Associate Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- i. Business Associate shall document any disclosures of PHI and information related to any disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within five (5)



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business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.

- I. Within thirty (30) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-ups of such PHI in any form or platform. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

**(4) Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI. A current version of the Covered Entity's Notice of Privacy Practices is attached to the end of this BAA. Any changes in the Covered Entities' website: <https://www.dhhs.nh.gov/oos/hipaa/publications.htm>
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**(5) Termination of Agreement for Cause**

In addition to Paragraph 9 of the standard terms and conditions (P-37) of this Agreement, the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a material breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity.

**(6) Miscellaneous**

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein,



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shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.

- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA and 42 CFR Part 2.
- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Business Associate Agreement in section (3) I, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of Business Associate Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

Department of Health and Human Services

The State

Name of the Contractor

Signature of Authorized Representative

Signature of Authorized Representative

Name of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

Title of Authorized Representative

Date

Date